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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/057,413	01/25/2002	Anthony G. Martin	50642.00022	8375
30256	7590	10/05/2005		
SQUIRE, SANDERS & DEMPSEY L.L.P 600 HANSEN WAY PALO ALTO, CA 94304-1043				
			EXAMINER NGUYEN, HAI V	
			ART UNIT 2142	PAPER NUMBER

DATE MAILED: 10/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/057,413

Applicant(s)

MARTIN ET AL.

Examiner

Hai V. Nguyen

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 September 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-44 and 49 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-44 and 49 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission received on 12 September 2005 has been entered.
2. Claims 45-48 are cancelled.
3. Claim 49 is new one.
4. Claims 1-44, 49 are presented for examination.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102(e) that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

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6. Claims 1-5, 7-12, 14-19, 21-27, 29-34, 36-41, 43-44, 49 are rejected under 35 U.S.C. 102(e) as being anticipated by **Koeppel** et al. U.S. patent # **6,477,575 B1**.

7. As to claim 1, Koeppel, System and Method For Performing Dynamic Web Marketing And Advertising, discloses a method for presenting information, comprising:

collecting at a client information about a user utilizing a local application (*client side scripting, applets or similar*) residing on the client, the information about the user including navigation behavior of the user, the navigation behavior (*col. 5, lines 33-42*) being monitored at the client by the local application (*Koeppel, Abstract, col. 4, lines 5-50*);

transmitting via a network the collected information from the local application on the client to a location for generating a user profile for the user based on the collected information, wherein content is selected for the user based on the generated user profile (*Koeppel, Abstract, col. 4, lines 5-50; col. 7, lines 30-40*);

receiving the content at the client via the network (*Koeppel, Abstract, col. 4, lines 5-50*); and

presenting the content to the user at the client (*Koeppel, Abstract, col. 4, lines 5-50*).

8. As to claim 2, Koeppel discloses, wherein the information about the user includes information relating to network utilization behaviors and wherein the navigation behavior includes information of domains (*sites or web pages*) visited by the user, the numbers of pages viewed by the user and time spent by the user at a site (*Koeppel, Abstract, col. 4, lines 5-50; col. 7, lines 4-17*).

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9. As to claim 3, Koeppel discloses, wherein the user profile of the user includes model generated information (*Koeppel, Abstract, col. 4, lines 5-50; col. 7, lines 4-17*).

10. As to claim 4, Koeppel discloses, wherein the content includes one or more rules for controlling the presentment of the content to the user at the client (*Koeppel, Abstract, col. 4, lines 5-50; col. 7, lines 4-17; col. 8, lines 46-52*).

11. As to claim 5, Koeppel discloses wherein the information transmitted to the location includes an identifier (*attribute*), and wherein at least a portion of the content is selected based on the identifier (*Koeppel, Abstract, col. 4, lines 5-50; col. 6, line 54- col. 7, line 17*).

12. As to claim 7, Koeppel discloses, wherein the user accesses sites coupled to the network utilizing a first browser application (*Netscape browser or MS Internet Browser, col. 6, lines 5-15*) hosted by the client computer and monitored by the local application (*client side scripting, applets or similar*) (*Koeppel, Abstract, col. 4, lines 5-50; col. 5, lines 33-42; col. 7, lines 30-40*).

13. Claim 8 is corresponding system claim of claim 1; therefore, it is rejected under the same rationale as in claim 1.

14. Claims 9-12, 14 are similar limitations of claims 2-5, 7; therefore, they are rejected under the same rationale as in claims 2-5, 7.

15. Claim 15 is corresponding computer readable medium claim of claim 1; therefore, it is rejected under the same rationale as in claim 1.

16. Claims 16-19, 21 are similar limitations of claims 1-5, 7; therefore, they are rejected under the same rationale as in claims 2-5, 7.

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17. Claim 22 is corresponding system in means plus function as claim 1; therefore, it is rejected under the same rationale as in claim 1.

18. Claim 23 is corresponding method claim of claim 1; therefore, it is rejected under the same rationale as in claim 1.

19. Claims 24-27, 29 are similar limitations of claims 2-5, 7; therefore, they are rejected under the same rationale as in claims 2-5, 7.

20. Claim 30 is corresponding system claim of claim 1; therefore, it is rejected under the same rationale as in claim 1.

21. Claims 31-34, 36 are similar limitations of claims 1-7; therefore, they are rejected under the same rationale as in claims 1-7.

22. Claim 37 is corresponding computer readable medium claim of claim 1; therefore, it is rejected under the same rationale as in claim 1.

23. Claims 38-41, 43 are similar limitations of claims 2-5, 7; therefore, they are rejected under the same rationale as in claims 2-5, 7.

24. Claim 44 is corresponding system in means plus function as in claim 23; therefore, it is rejected under the same rationale as in claim 23.

25. Claim 49 is similar limitations of claim 1; therefore, it is rejected under the same rationale as in claim 1.

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Claim Rejections - 35 USC § 103

26. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

27. Claims 6, 13, 20, 28, 35, and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koeppel as applied to claims 1-5 above, and further in view of **Chen** et al. U.S. patent # **6,857,024 B1**.

28. As to claim 6, Koeppel does not explicitly, wherein a fee is generated when the content is selected, and wherein the fee is charged to a party associated with the selected content. Thus, the artisan would have been motivated to look into the related networking arts for potential methods and apparatus for implementing a fee is generated when the content is selected, and wherein the fee is charged to a party associated with the selected content.

In the same field of endeavor, Chen, related System And Method For Providing On-line Advertising And Information, discloses, e.g., in the tracking user browsing sites online art, that *the advertisers and on-line radio stations using this service would be charged by the Internet telephony service provider for advertising or on-line radio time.*

Accordingly, the user is assessed lower per-minute toll charges, or no charges, by the Internet telephony service provider to place Internet telephony calls, (col. 17, lines 50-57).

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Accordingly, it would have been obvious to one of ordinary skill in the networking art at the time the invention was made to have incorporated Koeppel's teachings of performing dynamic Web Marketing and advertising (*Koeppel, title*) with the teachings of Chen, for the *purpose of achieving marketing or advertising goals (Koeppel, col. 5, line 58) and targeting the consumer's interest (Chen, col. 4, lines 39-41).*

29. Claims 13, 20, 28, 35, 42 are similar limitations of claim 6; therefore, they are rejected under the same rationale as in claim 6.

30. Further references of interest are cited on Form PTO-892, which is an attachment to this action.

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hai V. Nguyen whose telephone number is 571-272-3901. The examiner can normally be reached on 6:00-3:30 Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Caldwell can be reached on 571-272-3868. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Hai V. Nguyen
Examiner
Art Unit 2142



Patent Examiner
